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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/892,900 | 06/26/2001 | Kenneth W. Rake | IFLOW.2CP2F3C1 | 2814 |
| 20995 | 7590 | 03/21/2005 | EXAMINER | |
| KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614 | | | REICHLE, KARIN M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3761 | |

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

5/1

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|------------------------------|------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 09/892,900 | | RAKE ET AL. | |
| | Examiner | | Art Unit | |
| | Karin M. Reichle | | 3761 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-36 is/are pending in the application.
- 4a) Of the above claim(s) 18,20-22,25-27,29,32 and 35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-17,19,23,24, 28, 30-31, 33-34 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 18, 20-22, and 25-27, as well as new claims 29, 32 and 35 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11-6-02. Claims 29, 32 and 35 are also now withdrawn as pages 9-10 describing a conical spring and pages 46-47 relied upon by Applicant for support of the amendments do not describe the nonconical springs of the elected species having the claimed lengths.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Language Interpretation

3. It is noted that none of the claim language has been specifically defined. Therefore the terms of the claim will be given their common, i.e. dictionary, definition as is consistent with the specification. "Platen" as defined from the dictionary is "One of the two flat members of the printing press that serves to position the paper and hold it against the inked type". Since this is not consistent with the specification, "platen" will be interpreted as a member which is capable

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of exerting pressure. Figures 52-55 and page 49, lines 18-28 are deemed to provide support for the amendments to claims 14, 19 and 23 and new claims 28, 30-31, 33-34 and 36.

Claim Rejections - 35 USC § 102/103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 14-17, 19, 23-34, 30, 33 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Bau '852.

See, e.g., Figures 2 and 4 and col. 5, lines 29-38: 3 and 7 or 2 and 3 or 2, 3 and 7 are threadably engaged shells of generally circular outer shape, "platen", see Claim Interpretation section supra, is 31 with nonplanar surface, adjacent 32, which is "complementary", see discussion of Applicant's remarks infra, to inner surface of shell 7, adjacent 8, or the inner surface of 8, which shell and platen surfaces have a substantially planar central portion, e.g. adjacent 9 and 79, respectively, and a nonplanar annular portion, e.g. adjacent 8 and 31, respectively, and 78 is a spring fastened to shell 3. Also see col. 3, lines 20-23 of Bau, i.e. the space defined between the platen and the shell holds a fluid bag 25 therein. Note claim 24 with regard to this teaching also. With regard to added limitation of the distance of the movement of the platen being less than a perpendicular dimension, compare Figures 2 and 4 which show the

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distance of movement less than a perpendicular dimension of the space holding the bag 25. With regard to the working length of the spring being less than a free length of the spring, see, e.g. col. 3, lines 32-50, i.e. a spring which is pressing on or being held against the empty bag wall and interior surface of the first shell. It is noted that while Applicant has the criticality of a certain specific working length versus a certain specific free length in specific configurations, such specifics have not been claimed. Therefore, it is the Examiner's first position that the Bau patent teaches all the claimed structure and function including that added to each of the independent claims. In any case, the Examiner's second position, the Bau patent at least teaches all the claimed structure. With regard to the language of lines 1, and 7-8, i.e. "said space...therein", and the first three lines of the last section of claim 1, similar language in claims 19 and 23 and line 1 of claim 23, such language recites function, properties or capabilities of the structure recited in the claim. Again, the Bau patent includes such claimed structure. Therefore there is sufficient factual basis for one to conclude that the function, properties or capabilities of the claimed structure are also inherent in the same structure of Bau. See MPEP 2112.01. Finally, even if the Bau patent teaches only the structure and/or function except for that now added by amendment to the independent claims, it is the Examiner's third position that the added dimensions, distances and lengths would be obvious to one of ordinary skill in the art in light of the Figures 2 and 4 and col. 3, lines 32-50 and col. 5, lines 29-38 of Bau since the dimensions and distances are shown by the Figures and the spring of Bau presses or exerts force throughout its range of motion, i.e. the working length of 78 is necessarily and inevitably less than free length of 78 because the spring 78 configured as taught by Bau would not press or exert force if it had reached its free

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length and it presses or exerts force throughout its total distance of movement, see portions of Bau cited supra again.

Claim Rejections - 35 USC § 103

7. Claims 28, 31 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bau '852.

Applicant claims the total movement, i.e. the range of movement, being about a quarter of the minimum perpendicular dimension of the space. While Figures 52-55 of the instant specification show such relationship, no criticality of the specific range has been set forth. While Bau does not show such specific range of movement, it would be obvious to one having ordinary skill in the art at the time the invention was made to employ such a range of movement since it has been held that where the general conditions of a claim are disclosed in the prior art, i.e. both the claims and Bau teach the spring exerting force or pressure through its range of movement, discovering the optimum or workable ranges involves only routine experimentation or or skill in the art, see *In re Aller*, 105 USPQ 233. Note col. 5, lines 34-35, i.e. Bau recognized the spring's strength would control the compression amount.

Response to Arguments

8. Applicant's remarks have been noted with regard to the prior art but are deemed moot at this time in that such have not been reraised. It is noted that the claims do not explicitly require substantially complete delivery of fluid, or relative constant contact area between the bag and platen nor does the language added require such since the claimed structure, e.g. dimensions,

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distances and lengths, required by the claims do not necessarily provide such functions. Also, again, Applicants have not specifically defined the word "complementary" and thereby the usual or common definition thereof applies, i.e. "forming or serving as a complement, completing". The surfaces of Bau, do complement or complete each other. Attention is also directed to page 14, lines 17-21 of the instant specification in which it is clearly pointed out that "exact" conformation of the platen to the contour of the chamber bottom is not necessary, i.e. can "roughly" match. Furthermore, with regard to Applicant's argument that the dictionary definition of "platen" is a "plate-like member, especially one that exerts pressure", as noted above that is not what the dictionary defines platen as nor has such a definition been made explicit in the instant specification. Furthermore, such a definition would be inconsistent with the description of the platen as defining a "non-planar surface" in claims 14, 19 and 23 as a plate as defined by the dictionary is "a smooth, flat, relatively thin, rigid body of uniform thickness" and thus a "plate-like member" would be flat, i.e. not have a nonplanar surface.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The other reference now cited also includes claimed structure.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The language added to the independent claims as well as the new claims necessitated the new grounds of rejection.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (571) 272-4390. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karin M. Reichle
Primary Examiner
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